

**IN THE UNITED STATES BANKRUPTCY COURT
Eastern District of Pennsylvania**

In the Matter of:

Rafael Theokary

Debtor(s)

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Case No. 07-11008 DWS

Chapter 7

AMENDED MOTION TO REOPEN BANKRUPTCY CASE

Debtor, Rafael Theokary by and through his attorney motions this Honorable Court to reopen his Chapter 7 bankruptcy for the purpose of permitting the filing of adversary proceedings against several creditors who willfully and intentionally violated 11 U.S.C. §362 of the United States Bankruptcy Code.

1. Debtor, Rafael Theokary filed for protection under the United States Bankruptcy Code on February 16, 2007.
2. Creditors Tom Shay, Eric Abbitiello d/b/a Abbitiello Racing Stables, Gaitway Farms and Showcase Farms did willfully and purposefully violate 11 U.S.C. §362 of the United States Bankruptcy Code.
3. The above named creditors held a stableman's lien sale on February 19, 2007 and sold three horses namely Macs Derrick T, Mac Only VP and Macs Emily BJ at that sale, only three days after Debtor filed.
4. The horses were valued at \$75,000 on the Debtor's bankruptcy petition.
5. The Debtor had valid leases for all three horses and these leases WERE NEVER in default.
6. In April 2007, creditors' attorney Jeffrey Picaro sought to have the leases rejected by the Chapter 7 Trustee under 11 U.S.C. §365 after already holding the sale and selling the collateral.
7. Chapter 7 Trustee, without contacting the lessor rejected the leases despite the fact that they were not in default.
8. Debtor filed motions in New Jersey State Court to have judgments against him set aside and the collateral returned.
9. Judge Visalli, Judge Superior Court of New Jersey, Cape May County, ruled that if the Debtor could bring back to him proof that the automatic stay was violated he would consider the Debtor's request to have the judgments set aside. (See p. 25 of transcript attached)

WHEREFORE, Debtor, Raphael Theokary prays for an Order reopening his case so that Debtor may proceed with the filing of an adversary against the four aforementioned creditors for damages and return of collateral.

Dated: October 7, 2008

/s/Keith D. Sklar, Esq.

Keith D. Sklar, Esq.

Attorney for Debtor, Rafael Theokary